IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

CURTIS JUNKMAN, Petitioner, vs. UNITED STATES OF AMERICA, Respondent.	No. C99-4086-MWB **MEMORANDUM OPINION AND ORDER REGARDING PETITIONER'S MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE**

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I. INTRODUCTION

This matter is before the court on the petitioner's, Curtis Junkman, Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence (Doc. No. 484). In his motion, the petitioner argues that the United States Attorney's Office is barred from

litigating a suppression of evidence issue in federal court when a state court ruled in favor of the defendant and suppressed the same evidence in prior state proceedings. Junkman asserts that such "relitigation"[1] is precluded by the Full Faith and Credit Clause of Article IV, section 1 of the United States Constitution, as codified by 28 U.S.C. § 1738, the Due Process Clause of the Fifth Amendment to the United States Constitution, and the Eighth Amendment to the United States Constitution's prohibition against cruel and unusual punishment. The United States, however, disagrees and avers that a state court's determination of a Fourth Amendment question is not binding on the United States in a subsequent federal prosecution. In any event, the United States further contends that Junkman waived his right to raise this constitutional claim because he failed to present it on his motion to suppress before Chief Magistrate Judge John A. Jarvey, failed to object to Chief Magistrate Judge Jarvey's Report and Recommendation on the petitioner's motion to suppress, and did not raise the issue on his direct appeal of his conviction—procedural defaults, which Junkman argues are excused by ineffective assistance of counsel.

II. PROCEDURAL AND FACTUAL BACKGROUND

On October 29, 1996, the Grand Jury returned a six count second superseding indictment against Junkman and ten other defendants. The Grand Jury charged each of the eleven named defendants with one or more federal drug or fire arms offenses, but specifically charged Junkman with one count of conspiracy to distribute methamphetamine

[1]Junkman frames the issue in this case as whether or not the federal government is precluded from "relitigating" a suppression issue when a state court previously ruled on the same issue and ruled in the defendant's favor. However, the federal government was not afforded an opportunity to develop the facts or to argue legal points at the state court level. Thus, despite Junkman's terminology, the United States Attorney's Office did not "relitigate" the suppression issue in this case because it was not a party to the state court proceedings in the first instance.

in violation of 21 U.S.C. § 846 and one count of possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1). Junkman pleaded not guilty and proceeded to a jury trial. After a four-day trial, the jury returned a guilty verdict as to both counts on December 11, 1997.[2]

The search that Junkman claims violated his constitutional rights occurred in July of 1994. The facts surrounding the July 25, 1994 search are well-documented and can be found in Chief Magistrate Judge Jarvey's Report and Recommendation (Doc. No. 293), this court's Order Regarding Magistrate Judge's Report And Recommendation (Doc. No. 336), as well as in the Iowa District Court decision on Junkman's Motion To Suppress (Pet.'s Br., at App. A). It suffices to summarize the facts as follows: Kent Junkman, the petitioner's brother, was a convicted felon who had escaped from state custody. Officers held a valid warrant outstanding for Kent Junkman's arrest and believed that he was residing in a motel room in Fort Dodge, Iowa, rented by Dale Fitzgerald. Officers secured a photograph of Kent Junkman, and the motel desk clerk believed that the individual depicted in the photograph was the person staying in the room rented by Fitzgerald. After knocking on the motel room door and identifying themselves as police officers, officers entered the room. Kent Junkman was not present; however, drug paraphernalia was in plain view. When questioned post-*Miranda* by police, the petitioner readily admitted that there were significant amounts of methamphetamine present in the motel room, as well as quite a bit of cash. Based upon the items observed in the motel room and statements made by the petitioner, officers secured a search warrant for the room, the execution of which unearthed

[2]As to the conspiracy charge, the indictment charged that Junkman conspired to distribute or to possess with the intent to distribute methamphetamine, cocaine, and marijuana. The jury, however, found that only methamphetamine, and not cocaine or marijuana, was the subject of the conspiracy. In addition, the jury found Junkman guilty of the conspiracy charge under both alternative theories: distribution and possession with intent to distribute.

drugs, cash, and other evidence of drug trafficking.

State authorities filed charges against the petitioner, Fitzgerald, and a third occupant of the room, Kim Hancock. Junkman filed a Motion To Suppress on November 2, 1994. He alleged violations of the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, as well as violations of Article I, Sections 8 and 9 of the Iowa Constitution. The Iowa court found that the officers' initial entry into the hotel room was unlawful and applied the "fruit of the poisonous tree" doctrine to suppress the evidence obtained pursuant to the subsequent search warrant. State charges were dismissed, but the federal Grand Jury returned an indictment against Junkman in October of 1996, charging him with the federal offense of possession with intent to deliver methamphetamine, arising out of the same conduct for which he was charged in state court.

In the course of the federal prosecution, Junkman moved to suppress physical evidence seized during the July 25, 1994 motel room search and his subsequent confession. (Doc. No. 152). The motion was referred to Chief Magistrate Judge Jarvey, who recommended that it be denied. Junkman filed three objections to Judge Jarvey's Report and Recommendation. First, he objected to Judge Jarvey's legal conclusion that the United States Supreme Court decision in *Steagald v. United States*, 451 U.S. 204 (1981), does not protect him. Second, he objected to Judge Jarvey's conclusion that the police had a reasonable belief that Kent Junkman was present in the motel room that was searched. And third, he argued that Judge Jarvey's conclusion that the petitioner's confession was voluntary was incorrect. In an order dated August 3, 1997, this court made a de novo determination of those portions of the Report and Recommendation to which Junkman objected. This court rejected the magistrate judge's reasoning but, applying a different analysis, ultimately overruled Junkman's objections and denied the Motion To Suppress. As previously noted, Junkman proceeded to trial and was convicted. On March 17, 1998, he was sentenced to a term of incarceration of 168 months on each count, to be served concurrently.

Junkman appealed this court's determination that the motel room search was valid and that his confession was voluntary. In addition, he appealed this court's denial of his Federal Rule of Criminal Procedure 29 motion for a judgment of acquittal or, in the alternative, a motion for new trial. The Eighth Circuit Court of Appeals affirmed this court's decisions on November 16, 1998, in *United States v. Junkman*, 160 F.3d 1191 (8th Cir. 1998), *cert. denied*, 526 U.S. 1094 (1999). At no time did Junkman assert that this court was collaterally estopped from revisiting the admissibility of evidence seized from the motel room on the theory that the Iowa state court's suppression decision barred relitigation of the issue in federal court. Nevertheless, at the core of Junkman's petition for *habeas* relief pursuant to 28 U.S.C. § 2255 rests a determination of this very issue because each of his constitutional claims hinge on the validity of his argument that the United States Attorney's Office is barred from relitigating a suppression issue that was ruled on in state court.

III. LEGAL ANALYSIS

A. Standards Applicable To Section 2255 Motions

The Eighth Circuit Court of Appeals has described 28 U.S.C. § 2255 as "the statutory analogue of habeas corpus for persons in federal custody." *Poor Thunder v. United States*, 810 F.2d 817, 821 (8th Cir. 1987). In *Poor Thunder*, the court explained the purpose of the statute:

> [Section 2255] provides a remedy in the sentencing court (as opposed to habeas corpus, which lies in the district of confinement) for claims that a sentence was "imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack."

Id. at 821 (quoting 28 U.S.C. § 2255). Of course, a motion pursuant to section 2255 may not serve as a substitute for a direct appeal; rather "[r]elief under [this statute] is reserved

for transgressions of constitutional rights and for a narrow range of injuries that could not have been raised for the first time on direct appeal and, if uncorrected, would result in a complete miscarriage of justice." *United States v. Apfel*, 97 F.3d 1074, 1076 (8th Cir. 1996).

The failure to raise an issue on direct appeal ordinarily constitutes a procedural default and precludes a defendant's ability to raise that issue for the first time in a section 2255 motion. *Matthews v. United States*, 114 F.3d 112, 113 (8th Cir. 1997), *cert. denied*, 118 S. Ct. 730 (1998); *Bousley v. Brooks*, 97 F.3d 284, 287 (8th Cir. 1996), *cert. granted*, 118 S. Ct. 31 (1997); *Reid v. United States*, 976 F.2d 446, 447 (8th Cir. 1992) (citing *United States v. Frady*, 456 U.S. 152 (1982)), *cert. denied*, 507 U.S. 945 (1993). This rule applies whether the conviction was obtained through trial or through the entry of a guilty plea. *United States v. Cain*, 134 F.3d 1345, 1352 (8th Cir. 1998); *Walker v. United States*, 115 F.3d 603, 605 (8th Cir. 1997); *Matthews*, 114 F.3d at 113; *Thomas v. United States*, 112 F.3d 365, 366 (8th Cir. 1997) (per curiam). A defendant may surmount this procedural default only if the defendant "'can show both (1) cause that excuses the default, and (2) actual prejudice from the errors asserted.'" *Matthews*, 114 F.3d at 113 (quoting *Bousley*, 97 F.3d at 287); *see also United States v. Apfel*, 97 F.3d 1074, 1076 (8th Cir. 1996).

Junkman readily acknowledges that none of the claims presented in his section 2255 motion were raised on appeal. He asserts that this procedural default should be excused, however, because it was the result of ineffective assistance of counsel. A defendant alleging ineffective assistance of counsel in the context of a section 2255 motion must demonstrate both constitutionally deficient performance by counsel and actual prejudice as a result of the deficiency. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Apfel*, 97 F.3d at 1076; *Cheek v. United States*, 858 F.2d 1330, 1336 (8th Cir. 1988). The court need not address whether counsel's performance was deficient if the defendant is unable to

prove prejudice. *Apfel*, 97 F.3d at 1076 (citing *Montanye v. United States*, 77 F.3d 226, 230 (8th Cir.), *cert. denied*, 117 S. Ct. 318 (1996)); *see also Pryor v. Norris*, 103 F.3d 710, 712 (8th Cir. 1997) (observing "[w]e need not reach the performance prong if we determine that the defendant suffered no prejudice from the alleged ineffectiveness."). The Supreme Court has stated that "[i]f it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice . . . that course should be followed." *Strickland*, 466 U.S. at 697. With these standards in mind, the court now turns to its consideration of the issues raised in Junkman's section 2255 motion.

B. Effect Of State Court's Fourth Amendment Determination In Subsequent Federal Prosecution

On this section 2255 motion, Junkman asserts the following three claims:

> (1) that under 28 U.S.C. § 1738, the decision of the Iowa court was entitled to full faith and credit in this Court precluding relitigation of the issues decided by the Iowa court; (2) collateral estoppel is not only constitutionalized under the Double Jeopardy Clause, but is also a part of the Due Process Clause with the result in this case of precluding the Government from relitigating issues already determined in Junkman's favor; and (3) collateral estoppel is also a part of the Eighth Amendment's Cruel and Unusual Punishments Clause prohibiting the Government from requiring criminal defendants to twice undergo the relitigation of an issue previously determined in the defendant's favor.

[Pet.'s Br., at 2-3]. Aside from arguing that Junkman has waived his right to raise these issues, the government asserts that collateral estoppel is inapplicable to this situation because state and federal courts are arms of separate sovereigns; thus, the government contends that the state court's Fourth Amendment determination had no preclusive effect on the United States in the subsequent federal prosecution.

Because *Strickland* instructs courts to first address the prejudice prong of an

ineffective assistance claim if that course is less labyrinthian, the court begins by considering the validity of Junkman's collateral estoppel argument. *See Strickland*, 466 U.S. at 697. The United States Supreme Court decision in *Elkins v. United States*, 364 U.S. 206 (1960), and Eighth Circuit caselaw interpreting the *Elkins* holding are controlling, and dictate this analytical sequence. In *Elkin*, the Court enunciated a new rule for federal prosecutions that required the exclusion of all evidence obtained in violation of the Fourth Amendment, regardless of whether the evidence was obtained by federal or state officers. *Id.* at 223. In that case, the defendants were indicted in federal court for the offense of intercepting and divulging telephone communications and of conspiracy to do so. *Id.* at 206-07. Before their trial, they moved to suppress several tape recordings, which two state courts had found were obtained through an illegal search and seizure. *Id.* at 207. The federal district court denied the motion, however, even though it assumed that the search was illegal on the ground that no federal officers were involved in the search.[3] *Id.*

On *certiorari*, the issue before the Court was whether "articles obtained as the result of an unreasonable search and seizure by state officers, without involvement of federal officers, [could] be introduced in evidence against a defendant over his timely objection in a federal criminal trial." *Id.* at 208. The Court answered that such evidence was subject to exclusion in a federal prosecution and held that "evidence obtained by state officers during a search which, if conducted by federal officers, would have violated the defendant's

[3]Prior to the *Elkins* decision, the Court made clear that the federal government enjoyed "the right . . . to avail itself of evidence improperly seized by state officers operating entirely upon their own account." *Byars v. United States*, 273 U.S. 28, 33 (1927). Thus, the application of the exclusionary rule in federal courts to searches and seizures depended upon the employer of the seizing officer. This doctrine, which effectively permitted state officers to illegally obtain evidence and then to transfer it to federal authorities, came to be known as the "silver platter doctrine." *Lustig v. United States*, 338 U.S. 74, 79 (1949).

immunity from unreasonable searches and seizures under the Fourth Amendment is inadmissible over the defendant's timely objection in a federal criminal trial." *Id.* at 223.

Of primary significance for this court's consideration of Junkman's claims is the following summary of the Court's reasoning:

> In determining whether there has been an unreasonable search and seizure by state officers, *a federal court must make an independent inquiry*, whether or not there has been such an inquiry by a state court, and *irrespective of how any such inquiry may have turned out*. The test is one of federal law, neither enlarged by what one state court may have countenanced, nor diminished by what another may have colorably suppressed.

Id. at 223-24 (emphasis added).

In *Elkins*, there is no indication that the defendants sought suppression under state law, as distinguished from federal constitutional law. Still, the *Elkins* Court ruled that federal courts were duty-bound to make an independent inquiry into the constitutionality of an alleged Fourth Amendment violation, "irrespective of how any such inquiry may have turned out" at the state court level. *See id.* at 224. *Elkins* mandates an independent federal court determination of constitutional issues even if a defendant had previously presented the same issues to a state court. *See id.* In making that independent inquiry, federal district courts must apply federal law—that is, their own interpretation of the federal constitution. *See id.*

This court is not alone in reading *Elkins* to stand for this proposition. Indeed, the Eighth Circuit Court of Appeals has cited *Elkins* and has rejected the exact argument pressed by Junkman. *See United States v. Friend*, 50 F.3d 548 (8th Cir. 1995), *vacated on other grounds*, 517 U.S. 1152 (1996). In *Friend*, the defendant filed a motion to suppress evidence on the ground that the police search of his vehicle, which lead to the seizure of drugs and fire arms, was violative of the Fourth Amendment. *Id.* at 550. The defendant

was initially charged with violating state drug laws, but those charges were dismissed after a state court suppressed the evidence found in Friend's car. *Id.* Federal authorities subsequently prosecuted Friend, charging him with eight counts of drug trafficking and one count of using a firearm equipped with a silencer during and in relation to a drug trafficking conspiracy. *Id.* at 549, 550.

The federal district court, however, denied the defendant's motion to suppress when presented with the same Fourth Amendment claims ruled unconstitutional by the state supreme court. *Id.* at 551. In considering Friend's motion to suppress, the district court ignored the state court's prior decision and made its own determination of Friend's constitutional claims. *Id.* Although Friend did not appeal on the ground that the federal government was collaterally estopped from litigating the suppression motion, the Eighth Circuit stated that the district court was correct in undertaking its own de novo determination of Friend's suppression motion. *Id.* The *Friend* court opined that a federal court's de novo determination of constitutional claims is a well-settled principle of law "because the Fourth Amendment issue 'is one of federal law, neither enlarged by what one state court may have countenanced, nor diminished by what another may have colorably suppressed.'" *Id.* (quoting *Elkins*, 364 U.S. at 224) (citing *United States v. Singer*, 687 F.2d 1135, 1144 n. 16 (8th Cir. 1982); *United States v. Wedelstedt*, 589 F.2d 339, 347 (8th Cir. 1978)). The Eighth Circuit panel expressed hesitation about the result in *Friend* because of the fact that federal officers were involved in the search that the state court ruled was illegal, which is a factor not present in Junkman's case. *Id.* But despite any misgivings, the *Friend* court held that "the state court's Fourth Amendment determination *is not binding on the United States in a subsequent federal prosecution.*" *Id.* (emphasis added).

Similarly, in *United States v. Wedelstedt*, 589 F.2d 339 (8th Cir. 1978), the Court of Appeals for the Eighth Circuit addressed the appellant's contention that comity dictated

that a federal court defer to a state court's assessment of the validity of a search warrant. In *Wedelstedt*, the defendant was convicted of transporting stolen goods and transporting in interstate commerce obscene films, for sale and distribution. *Id.* at 340. One of the defendant's employees became a confidential informant for the Iowa Bureau of Criminal Investigation ("Iowa BCI"). *Id.* at 341. On his own initiative, the informer obtained an inventory list of adult films. *Id.* at 345. He took the list because he suspected that the films listed were illegally transported and were those under investigation by the Iowa BCI. *Id.* The informer provided this list to law enforcement officers, who then obtained a warrant and seized the films identified on the list. *Id.*

In federal district court, Wedelstedt moved to suppress both the inventory list and the corresponding films. He argued that the films should have been excluded from evidence because the state court in a post-seizure statutory hearing invalidated the search warrant it had previously issued. *Id.* at 346. Consequently, argued Wedelstedt, "'considerations of the doctrines of comity, issue preclusion, due process, and those judicial considerations set forth in *Stone v. Powell*, 428 U.S. 465, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976) preclude a federal court from nullifying a state court decision in respect to the unconstitutionality of a state seizure made through state processes.'" *Id.* The district court rejected this argument, as did the Eighth Circuit, stating that this contention lacks merit because "[a] federal court is not bound for reasons of comity by a state court's assessment of a warrant." *Id.* at 346-47 (citing *Elkins*, 364 U.S. at 223-24). Like the district court, the Court of Appeals disagreed with the state court's ruling that the warrant lacked probable cause and held that the films were not illegally seized. *Id.* at 347. The Third Circuit Court of Appeals has likewise ruled that a federal court owes no deference to a state court's Fourth Amendment determination. *See United States v. Bedford*, 519 F.2d 650, 654 (3d Cir. 1975). In *Bedford*, prior to the filing of federal charges, a state court invalidated a search warrant, finding that it was constitutionally defective for its failure to adequately specify the place

to be searched. *Id.* The Third Circuit opined that, regardless of whether the state court applied federal or state law to invalidate the warrant, the federal court was obliged to make an independent determination of the constitutionality of the warrant. *Id.* (citing *Elkins*, 364 U.S. at 223-24). The court reasoned that "[i]t is a recognized principle that a federal court is not bound by a state court's interpretation of federal laws . . . ." *Id.* at 654 n.3. As such, like the *Friend* and *Wedelstedt* courts, the *Bedford* court sustained the validity of the search warrant even though the state court ruled it violated the defendant's Fourth Amendment rights. *Id.* at 655.

The above-cited cases demonstrate that, like the appellants' contentions in *Friend*, *Wedelstedt*, and *Bedford*, Junkman's argument that the United States Attorney's Office is constitutionally prohibited from litigating a suppression issue in federal court when a state court previously addressed the same issue and ruled in favor of the defendant lacks merit. Federal courts are not bound by state court determinations of federal law. *See Elkins*, 364 U.S. at 223-24. In fact, federal courts are correct in undertaking an individual assessment of federal constitutional issues and in not deferring to state courts on questions of federal law. *See id.* Because the prior state court ruling on the Fourth Amendment issue in Junkman's case did not have a preclusive effect on this court's inquiry into the constitutional validity of the state search, Junkman is not entitled to relief on this ground pursuant to section 2255.

Counsel for Junkman strenuously contends in his reply brief that Supreme Court precedent dictates that state court determinations of a Fourth Amendment claim are binding on federal courts so long as the state court fully and fairly considered the constitutional issues before it.[4] However, the petitioner cites *Stone v. Powell*, 428 U.S. 465 (1995), as

[4]The government moved to strike Junkman's reply on the ground it violated Local Rule 7.1(f). (Doc. No. 492). While this court agrees that Junkman's brief does not comply (continued…)

the primary source of law on this point. Citation to *Stone* in this case is inapposite because the *Stone* Court addressed the standard of review of a state court's Fourth Amendment determination on a petition for *habeas corpus* brought pursuant to 28 U.S.C. § 2254. "*Stone v. Powell* was meant to accord deference to state court search and seizure determinations where a State court defendant attacked his State court conviction in a federal forum in a § 2254 collateral attack." *Wedelstedt*, 589 F.2d at 347. Here, Junkman attacks his federal conviction, not a state conviction; therefore, the standards set forth in the Antiterrorism and Effective Death Penalty Act ("AEDPA") of 1996, 28 U.S.C. § 2254, which afford state court decisions extraordinary deference, are inapplicable to this case. *See id.* (rejecting appellant's argument that state court Fourth Amendment determinations are binding in a subsequent federal prosecution); *see also* 28 U.S.C. § 2254 (establishing deferential federal standard of review of state court decisions). This argument, too, lacks merit and, therefore, must fail.[5]

IV. CONCLUSION

The court has considered each of the grounds raised in petitioner Junkman's motion pursuant to 28 U.S.C. § 2255, and for the reasons set forth above, concludes that petitioner

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[4](…continued)
with the Local Rules, it is the court's opinion that, in this case, the government is not prejudiced by this court's consideration of the brief. Therefore, the court denies the respondent's motion.

[5]Because the court has determined that Junkman was not prejudiced by his counsel's failure to challenge the federal government's ability to litigate the suppression issues in this case because the claim lacks merit, there was no ineffective assistance of counsel within the meaning of the *Strickland* analysis. *See Strickland*, 466 U.S. at 687 (ineffective assistance claim requires showing of deficient performance by counsel and actual prejudice as a result of the deficiency). Consequently, the court will not address whether Junkman's procedural default bars him from obtaining *habeas* relief.

Junkman is not entitled to have his sentence vacated, set aside, or corrected. Therefore, petitioner Junkman's section 2255 motion is **denied**, and this matter is **dismissed in its entirety**.

IT IS SO ORDERED.

DATED this 13th day of September, 2002.

Mark W. Bennett

MARK W. BENNETT
CHIEF JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA